

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

UNITED STATES POSTAL SERVICE

and

**Cases 15-CA-122723
15-CA-140463
15-CA-140989
15-CA-142354
15-CA-142572
15-CA-151413
15-CA-153680
15-CA-158826**

**NATIONAL POSTAL MAIL HANDLERS
UNION, LOCAL 329**

DECISION AND ORDER

Statement of the Cases

On March 18, 2016, the United States Postal Service (the Respondent), National Postal Mail Handlers Union, Local 329 (the Local Union), and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to Board approval, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other proceedings before the Board to which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations, and the Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.¹

¹ Chairman Pearce and Member Hirozawa note that the remedy to which the parties have agreed differs in some respects from previous broad orders that the Board has issued against the Respondent in cases alleging that the Respondent has violated Sec. 8(a)(5) of the Act by failing and refusing to provide relevant information. See, e.g., *United States Postal Service*, 345 NLRB 426 (2005), *enfd.* 486 F.3d 683 (10th Cir. 2007); *United States Postal Service*, 28-CA-017383 et al., unpublished order issued November 4, 2002, *enfd.* Case 02-9587 (10th Cir. 2003). These broad orders, as enforced by the United States Courts of Appeals, remain in effect, and the Board's approval of this stipulation does not modify these orders in any respect.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Respondent's business

The United States Postal Service (the Respondent) provides postal services for the United States and operates various facilities throughout the United States in the performance of that function, including the facility located at 1921 Elvis Presley Blvd., Memphis, TN 18136, the only facility at issue here. The Board has jurisdiction over the Respondent and these matters by virtue of Section 1209 of the Postal Reorganization Act (PRA) (39 U.S.C. § 101 et seq.).

2. The labor organizations

The National Postal Mail Handlers Union, Local 329 (the Local Union) is a labor organization within the meaning of Section 2(5) of the National Labor Relations Act, 29 U.S.C. §151 et seq., (Act) and acts as the local agent of the exclusive bargaining representative and National Union known as the National Postal Mail Handlers' Union (NPMHU).

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, United States Postal Service, 1921 Elvis Presley Blvd., Memphis TN 18136, its officers, agents, successors, and assigns, shall

1. Cease and desist from:

(a) Failing and refusing to bargain in good faith with the exclusive representative of its National Postal Mail Handlers Union Local 329-represented employees in a unit appropriate for collective bargaining by failing and refusing to furnish the Local Union, in a timely manner, information requested by the Local Union which is relevant to and necessary for the Local Union's representation of employees as local agent of the National Union, National Postal Mail Handlers Union (NPMHU).

(b) Failing and refusing to bargain in good faith with the exclusive representative of its National Postal Mail Handlers Union Local 329-represented employees in a unit appropriate for collective bargaining by failing and refusing to furnish the Local Union information requested by the Local Union which is relevant to and necessary for the Local Union's representation of employees as local agent of the National Union.

(c) In any like or related manner interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Cease failing and refusing to bargain in good faith with the exclusive representative of its National Postal Mail Handlers Union Local 329-represented employees by informing, in writing, the Local Union as local agent of the National Union that the Respondent will timely provide it with relevant requested information in the future and that the Local Union may request relevant information from the Respondent.

(b) Conduct a prompt and diligent search for information requested by the Local Union that is relevant and necessary, and timely provide the Local Union as the agent of the National Union with relevant information it requests.

(c) Waive, for 60 days following issuance of the Board's Order, or the Respondent providing the requested information, whichever is longest, any contractual deadlines for filing and pursuing grievances related to the requested information, where the NPMHU and/or NPMHU Local 329 missed those deadlines due to the Respondent's delay in providing the information and/or informing the NPMHU or NPMHU Local 329 that the information does not exist.

(d) Preserve and, within 14 days of request, make available to the Board or its agents for examination and copying, all records necessary to determine that the Respondent has complied with the terms of this Order.

(e) Within 14 days of service by the Region, post at its 1921 Elvis Presley Blvd., Memphis, TN facility, copies of the attached notice marked "Appendix A."² Copies of the notice, on forms provided by the Regional Director for Region 15, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all

² If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

current employees and former employees employed by the Respondent at the closed facility at any time since August 23, 2013.

(i) Within 21 days after service by the Region, file with the Regional Director for Region 15 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., May 23, 2016

Mark Gaston Pearce, Chairman

Philip A. Miscimarra, Member

Kent Y. Hirozawa, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO EMPLOYEES POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER AND A CONSENT JUDGMENT OF ANY APPROPRIATE UNITED STATES COURT OF APPEALS

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union
- Choose a representative to bargain with us on your behalf
- Act together with other employees for your benefit and protection
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

The National Postal Mail Handlers Union (NPMHU) is the employees' representative in dealing with us regarding wages, hours and other working conditions of the employees in the following unit (Unit):

Included: the Employer recognizes the NPMHU as the exclusive bargaining representative of all employees in the bargaining unit for which the NPMHU has been recognized and certified at the national level – Mail Handlers; Excluded: Managerial and supervisory personnel, Professional employees, Employees engaged in personnel work in other than a purely non-confidential clerical capacity, Security guards as defined in Public Law 91-375, 1201(2), Postal Inspection Service employees, Employees in the supplemental work force as defined in Article 7, Rural Letter Carriers, City Letter Carriers, Maintenance employees, Special Delivery Messengers, Motor Vehicle Employees, Postal Clerks, Mail Equipment Shop employees, and Mail Transport Equipment Centers and Supply Center employees.

WE WILL NOT, upon request, refuse to bargain in good faith with NPMHU Local 329 as the National Union's designated agent for administering the collective-bargaining agreement at the Employer's Memphis, Tennessee facility.

WE WILL NOT refuse to provide NPMHU Local 329 with information that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT unreasonably delay in providing NPMHU Local 329 with information that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT unreasonably delay in responding to NPMHU Local 329 with regard to requested information that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT fail to respond to NPMHU Local 329 with regard to requested information that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT insist that NPMHU Local 329 clarify a request for information when the request is already clear on its face.

WE WILL NOT delay in diligently searching for information requested by NPMHU Local 329 that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT in any like or related manner interfere with, restrain or coerce you in the exercise of the rights guaranteed to you by Section 7 of the Act.

WE WILL, upon request, bargain in good faith with the NPMHU or NPMHU Local 329 as agent for administering the collective-bargaining agreement at the Memphis, Tennessee facility.

WE WILL, within 14 days of the posting of this notice, provide NPMHU Local 329 with the information it requested, if we have not already done so, as alleged in the Third Order Further Consolidating Cases, Third Consolidated Complaint and Notice of Hearing, which information is relevant and reasonably necessary for NPMHU Local 329 to administer the collective-bargaining agreement and to process pending grievances.

WE WILL, in a timely manner, notify NPMHU Local 329 that requested information is not available because it does not exist.

WE WILL waive, for 60 days following issuance of the Board's Order or our providing the requested information, whichever is longest, any contractual deadlines for filing and pursuing grievances related to the requested information, where the NPMHU or NPMHU Local 329 missed those deadlines due to our delay in providing the requested information and/or informing NPMHU or NPMHU Local 329 that the information does not exist.

WE WILL, if the information NPMHU Local 329 requested as alleged in the Third Order Further Consolidating Cases, Third Consolidated Complaint and Notice of Hearing does not exist, notify NPMHU Local 329 that the requested information does not exist, if we have not already done so.

WE WILL, in a timely manner, diligently search for information requested by NPMHU Local 329 that is relevant and necessary for it to perform its duties as the National Union's agent.

UNITED STATES POSTAL SERVICE

The Board's decision can be found at www.nlrb.gov/case/15-CA-122723 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

